

IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RICK FERMAZIN,)	
)	
Plaintiff,)	
)	
v.)	Case No: 15 CV 7272
)	
)	[Formerly Circuit Court of
MENARD'S,)	Cook County, Illinois, First District
)	Law Division, Case No. 15 L
)	7707]
Defendant.)	

NOTICE OF REMOVAL

Defendant, MENARD, INC., incorrectly sued as "Menard's" hereby removes Case No. 15 L 7707 from the Circuit Court of Cook County, Illinois, First District, Law Division, to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C § 1332, 1441(b) and 1446, and as grounds for its removal states as follows:

STATEMENT OF THE CASE

1. On July 29, 2013, the Plaintiff, RICK FERMAZIN, filed a Complaint in the Circuit Court of Cook County, Illinois, First District, Law Division, styled RICK FERMAZIN v. MENARD'S, Case No. 15 L 7707. (A copy of the Summons, Complaint, and proof of service on the Defendant is attached hereto as Exhibit A).
2. Menard, Inc. was served with the summons and Complaint on August 5, 2015.
3. The Complaint purports to state a cause of action for negligence.

4. In the Complaint, the plaintiff seeks compensatory damages in excess of \$75,000.00.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

5. The Court has jurisdiction over this matter under 28 U.S.C. § 1332 (a) because there is complete diversity of citizenship between the Plaintiff and MENARD, INC. and more than \$75,000.00 exclusive of interest and cost is at stake.

6. Plaintiff is a citizen of the State of Illinois.

7. MENARD, INC., is a citizen of the State of Wisconsin and is incorporated in the State of Wisconsin with its principal place of business in Eau Claire, Wisconsin. Therefore, there is complete diversity between the Plaintiff and the Defendant in this action.

8. The Plaintiff is claiming a right sided rotator cuff tear and a left knee injury requiring a total knee replacement as a result of the subject accident.

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1441 (a) and 1446 (a) because the Northern District of Illinois, Eastern Division, is the federal judicial district embracing the Circuit Court of Cook County, Illinois, First District, Law Division where the State Court Action was originally filed.

10. Pursuant to 28 U.S.C. § 1446 (a) and Local Rule, a true and correct copy of all of the process, pleadings, orders and documents from the State Court Action which have been served upon MENARD, INC., are being filed with this Notice of Removal. MENARD, INC.,

11. This Notice of Removal has been filed within 30 days of the date that MENARD, INC. was served with the summons and Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C. §1446(b).

CONCLUSION

By this Notice of Removal, MENARD, INC. does not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. MENARD, INC. intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions and/or pleas.

FABRIZIO, HANSON, PEYLA & KAWINSKI, P.C.

By: /s/ Marilyn Frangella

Marilynn Frangella
Attorney for Defendant
FABRIZIO, HANSON, PEYLA & KAWINSKI, P.C.
116 North Chicago Street, Suite 200A
Joliet, IL 60432
815/727-5445
Atty. No.: 6271920

PROOF OF SERVICE

I, Marilyn Frangella, attorney, certify that I served this Notice of Removal with exhibits to all attorneys of record by depositing a true and correct copy of same in the U.S. Mail, proper postage prepaid, in Joliet, Illinois, on August 18, 2015.

/s/ Marilyn Frangella

[x] I make this statement under penalties as
Provided by law pursuant to Section 1-109
Of the Illinois Code of Civil Procedure